

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Marcia Jolene Thompson

Case No. 08-81233

Chapter 13

Soc. Sec. No. xxx-xx-8827

Mailing Address: 2 Byerly Court, Durham, NC 27713-

Debtor

MOTION TO MODIFY PLAN

NOW COMES the Debtor, by and through counsel undersigned, who moves, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtor shows unto this Court the following:

1. This case was filed on August 22, 2008, with the Chapter 13 plan being subsequently confirmed on November 26, 2008.
2. The Debtor proposes to modify the Chapter 13 plan in this case in the following respects:

From: \$1,085.00 per month

To: \$1,085.00 per month through September, 2010, followed thereafter by \$1,163.00 per month, starting in April, 2011.
3. In addition, the Debtor requests a “waiver” to move her Chapter 13 plan payment delinquency to the end of the Chapter 13 plan for payment. As a condition of receiving this waiver, the Debtor agrees that, should any subsequent payments be more than thirty (30) days delinquent within the twelve (12) months following the entry of this Order, that the Debtor's case may be dismissed without further hearing by the Court. The Debtor agrees that any Order allowing such waiver shall not be *res judicata* as to timely Motions for Relief filed by secured creditors in this case.
4. The changed circumstances that justify the proposed modification are as follows:
 - A. The Debtor lost her job in 2009, and became ineligible for unemployment in 2010, leading to a significant plan delinquency. She recently began a new position with Allegis Group, and can now afford to continue her Chapter 13 plan.
5. An Amended Schedule I for the Debtor is attached hereto and is incorporated hereto by reference.
6. An Amended Schedule J for the Debtor is attached hereto and is incorporated by reference.

7. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325.

Appended Application for an Additional Attorney Fee

8. Counsel for the Debtor further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify, including, without limitation, the following:
- a. Calls from and to the Debtor to discuss changes in her situation which necessitate this motion, to explain the procedures and requirements involved, and to advise the Debtor accordingly; and
 - b. Contact with the Trustee's office concerning the proposed modification; and
 - c. Re-evaluating and recalculating the Chapter 13 plan in this case; and
 - d. Drafting this Motion and Certificate of Service; and
 - e. Service of the Motion on all interested parties, which includes all creditors scheduled in this case, at the expense of the undersigned law firm; and
 - f. Filing of the Motion; and
 - g. Prospective attendance with Debtor at the hearing upon the motion, if any; and
 - h. Prospective drafting and filing of the proposed Order and Deputy Clerk's Certificate of Service; and
 - i. Prospective follow-up instructions to client, as will be necessary, following the granting of this motion.

These services were not taken into account in the contract for legal services entered into between the undersigned and the Debtor.

WHEREFORE, the Debtor prays that this Court grant her Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: March 16, 2011

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Koury Hicks

Koury Hicks
North Carolina State Bar No.: 36204
6616-203 Six Forks Road
Raleigh, N.C. 27615
(919) 847-9750

CERTIFICATE OF SERVICE

I, Koury Hicks, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on March 16, 2011 , I served copies of the foregoing **MOTION TO MODIFY PLAN** by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II
Chapter 13 Trustee
P.O. Box 3613
Durham, N.C. 27702-3613

Michael West
U.S. Bankruptcy Administrator
P.O. Box 1828
Greensboro, N.C. 27402-1828

Marcia Jolene Thompson
2 Byerly Court,
Durham, NC 27713-

All creditors with duly filed claims as listed as shown on the Trustee's website.

/s Koury Hicks

Koury Hicks